

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

10 BENITO JULIAN LUNA,

11 Petitioner, NO. CIV S-04-0627 FCD GGH P

12 vs. ORDER

13 SCOTT KERNAN,

14 Respondent.

15 \_\_\_\_\_ /

16 Petitioner's former appointed counsel has requested \$14,402.52 in attorneys' fees.

17 This case was unduly delayed by petitioner's counsel during the exhaustion process and/or the  
18 period after exhaustion but before re-commencement of the action in federal court, to the point  
19 that when the amended petition was filed, the issue of the expiration of the statute of limitations  
20 was raised *sua sponte* by the undersigned. That issue remains pending. Until the action has been  
21 adjudicated, the undersigned declines to award attorneys' fees. Should the action not be  
22 dismissed on limitations' grounds, the undersigned will reconsider this order.

23 DATED: August 2, 2011

24 /s/ Gregory G. Hollows  
25 UNITED STATES MAGISTRATE JUDGE  
26

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